

This page was added on 03 December 2012 to included the Disclaimer below.  
No other amendments were made to this Product

#### DISCLAIMER

Users are warned that this historic issue of this publication series may contain language or views which, reflecting the authors' attitudes or that of the period in which the item was written, may be considered to be inappropriate or offensive today.

## CHAPTER XVII

### PUBLIC JUSTICE

NOTE.—In interpreting statistics of public justice, it should be realized that a number of factors affect comparability from State to State and from year to year, e.g.:

- (a) Differences in the jurisdiction of courts;
- (b) Changes in the law in particular States and differences in the laws between States;
- (c) Differences in the methods of compiling the figures (e.g. in respect of persons convicted for more than one offence);
- (d) The attitude to laws such as those connected with liquor, vagrancy, gaming, and traffic offences;
- (e) The strength and distribution of the police force;
- (f) The proportion of various types of crimes reported and solved.

#### § 1. The Australian Legal System

1. **Development of the System.**—The two major factors in the development of the Australian legal system have been its British origin and the Federal Constitution of 1900. When the various parts of Australia were first settled by British colonists, the common law and statutes of England were brought with them by the settlers. When local law-making bodies were established, the law so brought in was gradually modified and augmented by local legislation, but the Imperial Parliament in London also continued to legislate (to a lesser and lesser extent) in respect of Australia. The Federal Constitution of 1900, which is itself an Imperial Act, limited the legislative power of State Parliaments in some respects and created a federal legislature. Since the *Statute of Westminster Adoption Act 1942*, the Imperial Parliament can legislate for Australia only at Australia's request. The sources of Australian law of today are, therefore, found in Commonwealth and State legislation, in some Imperial legislation and in the common law. No significant attempt has been made at codification of the law, but three of the States (Queensland, Western Australia, and Tasmania) have Criminal Codes. However, separate consolidations of the statutes of the Commonwealth and of all States except Western Australia (which has adopted a system of reprinting of individual statutes at intervals) have been brought out from time to time.

There are few constitutional or other legislative guarantees of individual rights and liberties in Australia. These rights are nevertheless protected, because a basic feature of the Australian system is the "rule of law": no act, official or unofficial, however *bona fide* and apparently reasonable, which infringes the liberty or rights of an individual is justifiable unless it is authorized by law, and for any such unlawful act, by whatever authority commanded, the official or other person is personally liable in an action in the ordinary courts. In the case of subordinate legislation, and even in the case of Federal or State Acts, the validity of the law itself may be challenged in the courts. The remedy for the protection of the personal liberty of the individual is the writ of habeas corpus, which requires the person named therein to be produced in the court.

Australian law adheres to the principle that judicial control must in general be exercised by ordinary courts. There is no integrated system of administrative tribunals, but there is a great variety of such tribunals of various descriptions. The ordinary courts exercise supervision over administrative tribunals either by way of statutory appeal or by the use of prerogative writs of *mandamus*, *prohibition*, or *certiorari*, by which the administrative tribunals can be enjoined to perform a duty or to abstain from excess of jurisdiction, or can have their decisions set aside.

Independence of the judiciary is an essential part of the Australian legal system. Security of tenure of superior court judges is guaranteed, mostly by the Constitutions of the Commonwealth and the States, and they can be removed from office only by resolution of both Houses of Parliament of the Commonwealth or the States, as the case may be, for proven misbehaviour or incapacity. Their independence is further secured by relatively high salaries which, in the case of High Court judges, cannot be reduced during their tenure of office, and liberal (mostly non-contributory) pensions for the judges or their widows.

Civil judgments given in the courts of any part of Australia can be enforced in any other part of Australia under the *Service and Execution of Process Act* 1901-1963 of the Commonwealth. Since 1st January, 1964, this applies also to fines imposed by courts of summary jurisdiction.

**2. State and Territory Courts.**—(i) *Civil jurisdiction.* Lower civil courts (which term includes, for the purposes of this chapter, Magistrates' Courts, Courts of Petty Sessions, Local Courts, Small Debts Courts, Courts of Request and Courts of General Sessions) are usually constituted or presided over by a stipendiary or special magistrate or a commissioner. In some limited instances, justices of the peace may exercise the jurisdiction of the court. Local Courts are sometimes constituted by a Judge. The powers of the magistrates in the various States and Territories are set out in § 2, pages 645-7. In most cases, unless the amount involved is very small, appeal may be made to a higher court against a magistrate's decision. In any case, the Supreme Court has a supervisory power, by means of prerogative writs, to examine whether a lower court has properly exercised its jurisdiction.

In the higher courts (which term includes, for the purposes of this chapter, District Courts, County Courts, and the Supreme Courts), actions are usually tried by a single judge, sitting with or without a jury, from whose judgment appeal lies to the bench of the Supreme Court. In certain cases, the appeal can be carried to the High Court of Australia. Appeals to the Privy Council are referred to on page 645.

(ii) *Criminal jurisdiction.* Criminal courts are of two kinds, namely, courts of summary jurisdiction and higher courts. Courts of summary jurisdiction, usually called Courts of Petty Sessions, may deal summarily with minor offences; higher courts, known as Courts of Sessions, Quarter Sessions or General Sessions (not to be confused with the lower court of civil jurisdiction of that name) and the Supreme Court, hear indictable offences. A court of summary jurisdiction consists of a stipendiary or police magistrate, or two or more justices of the peace; a higher court consists of a judge or chairman, sitting with a jury. The jury finds as to the facts of the case and the judge determines the applicable law and, within the limits of the law, the punishment of the convicted person.

In the case of other than minor offences, a preliminary hearing is held before a stipendiary magistrate or justice of the peace for the purpose of determining whether a *prima facie* case has been made out. If the magistrate or justice of the peace finds that there is a case to answer, the person charged is committed for trial at a higher court. A magistrate or justice of the peace has power to release on bail.

There is an appeal to a higher court from the decision of a court of summary jurisdiction hearing a minor offence, and an appeal from a higher court to the full bench of the Supreme Court, or Court of Criminal Appeal. A further appeal may, with leave, be brought to the High Court of Australia.

**3. Federal Courts.**—(i) *General.* The judicial power of the Commonwealth is vested in the High Court of Australia (the Federal Supreme Court), in the Federal courts created by Parliament (the Federal Court of Bankruptcy and the Commonwealth Industrial Court), and in the State courts invested by Parliament with Federal jurisdiction, both civil and criminal. Further particulars regarding the judicial power of the Commonwealth will be found in Chapter III. (§§ 71-80) of the Commonwealth Constitution (*see* p. 16 of this Year Book).

Particulars concerning the Federal Court of Bankruptcy will be found in § 8 of this chapter. Information regarding the Commonwealth Industrial Court, which was established under the *Conciliation and Arbitration Act* 1904-1961, will be found in Chapter XIII. Labour, Wages and Prices (pp. 446-8).

(ii) *High Court of Australia.* The High Court of Australia consists of a Chief Justice and six other Justices. Its principal seat is in Melbourne, but sittings are held in every State capital as occasion requires. The High Court has both original and appellate jurisdiction. Its original jurisdiction is usually exercised by a single Justice, appellate jurisdiction by at least three Justices.

The Constitution itself confers original jurisdiction on the High Court in all matters (i) arising under any treaty, (ii) affecting consuls or other representatives of other countries, (iii) in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party, (iv) between States, or between residents of different States, or between a State and a resident of another State, (v) in which a writ of *mandamus* or prohibition or an injunction is sought against an officer of the Commonwealth. In addition, Parliament may, under the Constitution, confer additional original jurisdiction on the High Court in certain classes of matters, and has in fact conferred original jurisdiction on the High Court in all matters arising under the Constitution or involving its interpretation and in trials of indictable offences against the laws of the Commonwealth. In matters (i) and (v) and in suits between the Commonwealth and a State or between States, the jurisdiction of the High Court is exclusive of that of the State Courts, and in matters (other than trials of indictable offences) involving any question as to the limits *inter se* of the constitutional powers of the Commonwealth and those of the States, the jurisdiction of the High Court is exclusive of that of the Supreme Courts of the States.

Under the Constitution, the High Court has jurisdiction, with such exceptions and subject to such regulations as the Parliament permits, to hear and determine appeals from all judgments, decrees, orders and sentences of (i) any Justice or Justices exercising the original jurisdiction of the High Court, (ii) any other Federal court or court exercising Federal jurisdiction and (iii) from the Supreme Court or other court of any State from which appeal lay to Privy Council at the establishment of the Commonwealth. In respect of (iii), the Parliament has prescribed that, generally, appeal can be brought only by special leave of the High Court. However, in the case of judgments affecting the status of any person under the laws relating to aliens, marriage, bankruptcy or insolvency, or in respect of any sum or matter at issue, or involving any claim, demand, or question, to or regarding any property or civil right, amounting to or of the value of £1,500, appeal may be brought as of right from final judgments, and by leave of the High Court or the Supreme Court from interlocutory judgments.

By Acts of Parliament and by subordinate legislation, the High Court has also been given appellate jurisdiction in respect of the courts of the Territories under the control of the Commonwealth. Provision is also made in various enactments for appeal to the High Court on points of law from administrative determinations, such as decisions of the Commissioner of Taxation, Taxation Boards of Review, the Commissioner of Patents, or the Registrar of Trade Marks. Such proceedings, although called appeals, are in reality proceedings in the original jurisdiction of the High Court.

Transactions of the High Court are shown in § 6. p. 653).

4. **Appeal to the Privy Council.**—There is an appeal, by special leave of the Privy Council, from the High Court to the Privy Council. In certain important types of constitutional disputes, involving questions of the powers of the Commonwealth *vis-a-vis* the States, a certificate of the High Court in effect granting leave to appeal is necessary. There is also an appeal from the State Supreme Courts direct to the Privy Council.

## § 2. Lower (Magistrates') Courts

1. **Powers of the Magistrates.**—(i) *New South Wales.* There is no general limit to the powers of the magistrates with regard to offences punishable summarily, their authority depending in each case on the statute which creates the offence and gives them jurisdiction. Except in the case of a very few statutes, and excluding cumulative sentences, the power of sentence is limited to twelve months. Imprisonment in default of fine is regulated by a scale limiting the maximum period according to the sum ordered to be paid, but in no case exceeding twelve months. Actions for debt and damage within certain limits also come within magisterial jurisdiction. In cases of liquidated debts, and damages whether liquidated or unliquidated the amount is limited to £150 before a court constituted by a stipendiary magistrate. Where the amount claimed exceeds £50, the Court must transfer the action to the District Court when the defendant gives notice that he objects to the action being heard and determined by a Court of Petty Sessions. Magistrates have power to entertain claims of up to £500 under the *Money Lenders and Infants Loans Act* 1941–1961. The amount

in actions of debt before two or more justices of the peace is limited to £30 and in actions of damages it is limited to £10, but may extend to £30 with the consent of the defendant. Outside the Metropolitan Area of Sydney and certain other prescribed districts, one justice of the peace may hear cases of debt, liquidated or unliquidated, or damage, up to £5 or to £30 by consent of parties.

(ii) *Victoria*. The civil jurisdiction of magistrates is restricted to what may be designated ordinary debts, damages for assault, restitution of goods, etc., where the amount in dispute does not exceed £100, and to actions arising out of torts or contracts to the extent of £250. No definite limit is fixed to the powers of the magistrates on the criminal side, and for some offences, sentences of up to two years imprisonment may be imposed. The proportion of long sentences is, however, comparatively small.

(iii) *Queensland*. Generally speaking, the maximum term of imprisonment which justices can impose is six months, but in certain exceptional cases, such as offences against sections 233, 344 and 445 of the Criminal Code (betting houses, aggravated assaults, and unlawfully using animals), sentences of twelve months may be imposed.

There is provision for applying cumulative sentences, but in practice not more than one sentence is generally made cumulative on a previous sentence.

(iv) *South Australia*. The power of special magistrates to impose fines and imprisonment is defined by the special Act creating the offence and conferring jurisdiction. In the case of minor indictable offences which are tried summarily, a maximum penalty of £100 fine or two years imprisonment is fixed by the *Justices Act* 1921-1960. Magistrates also have power to hear certain civil actions in which the amount claimed is less than £1,250.

(v) *Western Australia*. The powers of magistrates and justices with regard to offences which are tried summarily are governed by the Act creating the offence and giving them jurisdiction. Imprisonment in default of payment of a fine is regulated by a scale limiting the period according to the amount of the fine but not to exceed six months.

The civil jurisdiction of Local Courts is restricted in general to £500. By consent of the parties, any action that might be brought in the Supreme Court may be dealt with in a Local Court. Justices may act in the case of illness or absence of the magistrate.

Magistrates are coroners and justices may be appointed as acting coroners.

Magistrates have appellate jurisdiction under some statutes and in country districts act as Chairmen of the Session Courts. They may be appointed as Commissioners of the Supreme Court. On the goldfields, the magistrate is also the warden.

(vi) *Tasmania*. Magistrates are empowered to hear and determine in Courts of Petty Sessions all offences when an enactment expressly or by implication provides that the matter is to be determined summarily, or by or before justices, or that any offence is to be punishable upon summary conviction. In addition, stealing and analogous crimes may be heard and determined summarily on the election of the person charged, when the amount involved does not exceed £100.

No general limit is fixed in respect of sentences, the statute creating the offence almost invariably laying down the penalty. Where this is not the case, the *Contravention of Statutes Act* 1889 provides that a fine of £50 may be imposed. Sentences of imprisonment which justices may impose vary with the nature of the offence, with a maximum of two years. The aggregate of terms of cumulative sentences may not exceed two years.

The civil jurisdiction of magistrates is divided into two categories. A Commissioner of the Court of Requests, provided he is a legal practitioner, may hear actions for the recovery of debts and damages not exceeding £250. As Commissioners are invariably police magistrates, this jurisdiction is State-wide. Courts of General Sessions, constituted by at least two justices, exercise similar powers, but the jurisdiction cannot exceed £50. Only one court, that at Currie, King Island, has the maximum jurisdiction, the others being limited to £30.

(vii) *Northern Territory*. Stipendiary and special magistrates constituting courts of summary jurisdiction try offences punishable summarily. The punishment that may be imposed depends on the law creating the offence. Where there is no magistrate available, the offence may be tried by two or more justices of the peace or, if all parties consent, by one justice. Proceedings for committal on indictable offences may be heard by either a

magistrate or a justice of the peace. Certain indictable offences under the Territory law may be tried summarily by a magistrate or two justices of the peace, who may impose a fine of up to £100 or imprisonment for up to two years.

A stipendiary magistrate constituting a local court has a civil jurisdiction to hear and determine claims for not more than £1,000. A local court constituted by two justices of the peace (every special magistrate is also a justice of the peace) has a civil jurisdiction to hear claims up to £50.

(viii) *Australian Capital Territory.* Stipendiary and special magistrates have general jurisdiction to try offences punishable summarily and also where a person is made liable to a penalty or punishment and no other provision is made for trial. The punishment depends on the law which creates the offence. In addition to jurisdiction (possessed by stipendiary and special magistrates throughout Australia) to try summarily with the consent of the defendant offences indictable under the *Crimes Act 1914-1960* (in which case the magistrate cannot impose a fine exceeding £100 or imprisonment exceeding one year), under Territory law, certain indictable offences may also be tried summarily by a magistrate, who may impose a fine not exceeding £50 or imprisonment for up to one year. Magistrates also hear proceedings for committal on indictable offences. In civil proceedings, magistrates try actions for amounts up to £200. Justices of the peace have no judicial functions.

2. **First Offenders.**—In all States and Territories, statutes are in force for dealing with first offenders. For particulars of the relevant legislation, see Year Book, No. 46, page 632. Provisions are incorporated in the various Acts whereby courts may extend leniency to the offender by means such as: (i) dismissal of the charge without proceeding to a conviction; (ii) freeing the offender or suspending sentence with the requirement of a recognizance for good behaviour for a specified period; and (iii) by placing the offender under the supervision of a probation officer for a specified period. The provisions existing in the individual States and Territories are set out in Year Book No. 46.

3. **Children's Courts.**—Special provisions exist in all States and Territories for dealing with juvenile offenders in special courts. Particulars of the relevant legislation and the constitution and powers of these courts are given in Year Book No. 49, pages 665-6.

4. **Proceedings at Lower (Magistrates') Courts.**—Particulars of the differences in the jurisdiction of Lower Courts in the various States are given in § 2. 1 Powers of Magistrates, pages 645-7. The proceedings of these courts are summarized in this paragraph. In interpreting the statistics in the tables, the factors affecting comparability listed at the beginning of this chapter should be borne in mind.

(i) *Criminal.* (a) *Total Cases.* The total numbers of cases dealt with at magistrates' courts in each State and Territory for the years 1958 to 1962 are shown in the following table.

CASES AT MAGISTRATES' COURTS: OFFENCES CHARGED

State or Territory	1958	1959	1960	1961	1962
New South Wales(a) ..	323,097	331,195	332,728	345,730	322,848
Victoria ..	270,017	287,622	(a)268,104	(a)259,268	(a)270,275
Queensland(a)(b) ..	62,468	65,773	73,804	79,448	79,772
South Australia(a)(b) ..	36,305	38,003	47,427	59,534	61,276
Western Australia(a) ..	49,945	50,696	50,107	48,220	52,764
Tasmania(a) ..	20,009	21,355	24,047	27,227	30,415
Northern Territory ..	3,103	3,617	2,958	3,091	4,350
Australian Capital Territory ..	2,197	2,539	3,168	3,305	4,795
<b>Australia ..</b>	<b>767,141</b>	<b>800,800</b>	<b>802,343</b>	<b>825,823</b>	<b>826,495</b>

(a) Excludes minor traffic offences settled without court appearance. (b) Year ended 30th June.

Differences in the figures in the table above between States, and within a State over a period of time, are influenced by the large number of traffic offences and the arrangements which have been introduced at various times for dealing with them. Provision exists in the States for settlement of parking and minor traffic offences by payment of fines without court appearance. The following table shows the number of such offences for the years 1958 to 1962.

#### MINOR TRAFFIC OFFENCES SETTLED WITHOUT COURT APPEARANCES

State	1958	1959	1960	1961	1962
New South Wales ..	315,058	321,157	351,685	370,688	443,689
Victoria ..	(a)	(a)	69,895	113,874	132,144
Queensland(b) ..	18,803	22,701	40,648	58,977	75,322
South Australia(b) ..	n.a.	145,276	149,241	156,067	191,592
Western Australia ..	36,999	44,973	50,879	44,392	42,582
Tasmania ..	15,022	18,554	25,801	36,745	33,217
<b>Total ..</b>	<b>(c) 385,882</b>	<b>552,661</b>	<b>688,149</b>	<b>780,743</b>	<b>918,546</b>

(a) Not applicable.

(b) Year ended 30th June.

(c) Excludes South Australia.

(b) *Cases in which Convictions were made.* Of the cases dealt with in Magistrates' Courts in 1962, the following table shows the number in which convictions were made.

#### CASES AT MAGISTRATES' COURTS IN WHICH CONVICTIONS WERE MADE, 1962

Class of offence	N.S.W.	Vic.	Qld (a)(b)	S.A. (a)	W.A.	Tas.	N.T.	A.C.T.	Aust.
Against the person ..	3,398	2,183	526	489	508	340	99	47	7,590
Against property ..	28,509	16,317	4,306	3,199	6,305	1,364	275	229	60,504
Forgery and offences against the currency ..	413	516	1	5	1		45	10	991
Against good order ..	107,299	36,618	28,728	8,043	7,452	1,448	2,535	366	192,489
Other ..	152,865	190,383	38,141	41,795	35,425	23,059	1,014	3,437	486,119
<b>Total ..</b>	<b>292,484</b>	<b>246,017</b>	<b>71,702</b>	<b>53,531</b>	<b>49,691</b>	<b>26,211</b>	<b>3,968</b>	<b>4,089</b>	<b>747,693</b>

(a) Year ended 30th June.

(b) A person convicted on several counts at the one hearing is included only once.

The following table shows the number of cases in which convictions were made in each year from 1958 to 1962.

#### CASES AT MAGISTRATES' COURTS IN WHICH CONVICTIONS WERE MADE(a)

State or Territory	1958	1959	1960	1961	1962
New South Wales ..	294,540	303,504	306,436	314,307	292,484
Victoria ..	251,065	265,214	245,807	235,581	246,017
Queensland(b)(c) ..	60,592	60,212	67,508	71,642	71,702
South Australia(b) ..	32,621	34,203	42,531	52,155	53,531
Western Australia ..	47,037	47,579	47,462	45,773	49,691
Tasmania ..	17,216	19,094	20,196	23,212	26,211
Northern Territory ..	2,715	3,212	2,664	2,812	3,968
Australian Capital Territory ..	1,910	1,787	2,280	2,613	4,089
<b>Australia ..</b>	<b>707,696</b>	<b>734,805</b>	<b>734,884</b>	<b>748,095</b>	<b>747,693</b>

(a) Excludes minor traffic offences settled without court appearance.

(b) Year ended 30th June.

(c) A person convicted on several counts at the one hearing is included only once.

(c) *Cases in which Convictions were made for Drunkenness.* The numbers of cases in which convictions were recorded during each of the years 1958 to 1962 are given in the following table.

**DRUNKENNESS: CASES IN WHICH CONVICTIONS WERE MADE**

State or Territory	1958	1959	1960	1961	1962
New South Wales .. ..	68,354	69,201	68,591	67,809	68,546
Victoria .. ..	29,434	29,334	29,116	27,212	28,529
Queensland(a) .. ..	28,196	26,918	28,538	26,136	26,293
South Australia(a) .. ..	4,299	4,439	5,273	5,438	6,178
Western Australia .. ..	4,821	5,587	5,144	5,333	5,320
Tasmania .. ..	718	660	512	534	575
Northern Territory .. ..	926	1,010	822	1,037	1,388
Australian Capital Territory .. ..	380	255	298	307	252
<b>Australia .. ..</b>	<b>137,128</b>	<b>137,404</b>	<b>138,294</b>	<b>133,806</b>	<b>137,081</b>

(a) Year ended 30th June.

The term "drunkenness" includes "drunkenness and disorderliness", and "habitual drunkenness".

The rate of convictions for drunkenness since 1901 is shown below.

**RATE OF CONVICTIONS FOR DRUNKENNESS: AUSTRALIA**

Year .. ..	1901	1911	1921	1931	1941	1951	1961	1962
Convictions per 10,000 persons ..	133	133	97	57	91	175	129	128

For particulars of legislation relevant to the remedial treatment of drunkenness and some details of the various institutions established for the treatment of inebriates, see Official Year Book, No. 46, p. 632.

(ii) *Civil Proceedings.* Civil proceedings in the lower courts refer to those in the Small Debts Courts in New South Wales, Courts of Petty Sessions in Victoria, Magistrates' Courts in Queensland, Local Courts in South Australia and Western Australia, Courts of Requests in Tasmania, Local Courts in the Northern Territory and the Court of Petty Sessions in the Australian Capital Territory. Statistics of civil proceedings in the Lower Courts are given in § 5.

**§ 3. Higher (Judges') Courts**

1. **General.**—Higher courts are presided over by a judge, sometimes with a jury (see para. 2, page 644. Jurisdiction of the Higher Courts, which include District, County and Supreme Courts, includes appeals from the lower courts, cases of serious crime committed from lower courts and civil cases involving Common Law, Commercial Causes, Equity, etc.

Under powers vested by the Commonwealth under the *Matrimonial Causes Act 1960* and the *Bankruptcy Act 1924-1955*, separate courts within the jurisdiction of the Supreme Courts of the various States and Territories deal exclusively with matrimonial cases and bankruptcy cases respectively.

2. **Habitual Offenders.**—An account of the methods adopted in each jurisdiction in connexion with habitual offenders is given in Year Book No. 49, pages 668-9.

3. **Capital Punishment.**—There were four executions in Australia during the period 1954 to 1963. Two took place in South Australia (in 1956 and 1958), and two in Western Australia (in 1960 and 1961). In each case the offence was murder.

Under the *Criminal Code Amendment Act* of 1922, capital punishment was abolished in Queensland, and in New South Wales the Crimes Act was amended in 1955, abolishing capital punishment for all offences except treason and piracy with violence. In the Australian Capital Territory, the *Child Welfare Ordinance* 1957–1962 now provides that no death sentence is to be pronounced or recorded against a person under the age of 18 years.

In the early days of the history of Australia, the penalty of death was attached to a large number of offences, many of which would now be dealt with in a Magistrate's Court. The present tendency is to restrict death sentences to persons convicted of murder. Although rape is a capital offence in some States, the penalty of death has not been imposed in recent years on persons convicted of it.

The average annual number of executions in Australia from 1861 to 1880 was 9; from 1881 to 1900, 6; from 1901 to 1910, 4; from 1911 to 1920, 2; from 1921 to 1930, 2; from 1931 to 1940, 1; from 1941 to 1950, 0.5; and from 1951 to 1960, 1.0.

4. **Proceedings at Higher (Judges') Courts.**—Proceedings at higher courts comprise criminal, civil, divorce and bankruptcy proceedings. Separate details of each are given in § 4, paragraph 2, § 5, § 7, and § 8, respectively.

#### § 4. Serious Crime.

NOTE.—In interpreting the statistics in this section, the factors affecting comparability listed at the beginning of the chapter should be borne in mind.

1. **Lower Courts.**—(i) *Convictions for Serious Crime at Magistrates' Courts.* The figures given in the tables in § 2.4 refer to all convictions, and include offences of a technical nature, drunkenness, and minor breaches of good order, which come under the heading of crime in a very different sense from the more serious offences. The following table has therefore been prepared to show convictions at Magistrates' Courts for what may be regarded as the more serious offences, i.e., offences against the person, offences against property, forgery and offences against the currency.

The following table shows the number of convictions for serious crime at Magistrates' Courts for the years 1958 to 1962.

#### CONVICTIONS FOR SERIOUS CRIME<sup>(a)</sup> AT MAGISTRATES' COURTS

State or Territory	1958	1959	1960	1961	1962
New South Wales .. ..	27,960	30,769	31,529	31,696	32,302
Victoria .. ..	11,132	12,260	15,646	15,949	19,016
Queensland <sup>(b)(c)</sup> .. ..	4,301	4,422	4,678	4,736	4,833
South Australia <sup>(b)</sup> .. ..	2,338	2,554	2,604	3,552	3,693
Western Australia .. ..	6,016	5,423	5,764	5,256	6,814
Tasmania .. ..	1,666	1,634	1,788	1,636	1,704
Northern Territory .. ..	209	297	243	285	419
Australian Capital Territory ..	357	384	331	573	286
<b>Australia .. ..</b>	<b>53,979</b>	<b>57,743</b>	<b>62,583</b>	<b>63,683</b>	<b>69,067</b>

(a) Offences against the person, offences against property, forgery and offences against the currency.  
 (b) Year ended 30th June. (c) A person convicted on several counts at the one hearing is included only once.

The numbers of convictions for serious crime at Magistrates' Courts per 10,000 of population for the same series of years for Australia were:—1958, 55.0; 1959, 57.6; 1960, 61.1; 1961, 60.8; 1962, 64.6.

(ii) *Committals to Higher Courts.* The following table shows the number of offences, classified according to the nature of the offence, which were committed to higher courts for each State and Territory for the year 1962.

#### COMMITTALS TO HIGHER COURTS, 1962

Class of offence	N.S.W.	Vic.	Qld (a)(b)	S.A. (a)	W.A.	Tas.	N.T.	A.C.T.	Australia
Against the person ..	1,518	981	282	354	82	55	51	35	3,358
Against property ..	5,385	3,424	992	301	320	549	20	75	11,066
Forgery and offences against the currency ..	312	441	10	35	38	28	21	..	885
Against good order ..	117	177	4	9	10	4	..	..	321
Other .. .. .	82	445	7	13	..	7	..	..	554
<b>Total .. .. .</b>	<b>7,414</b>	<b>5,468</b>	<b>1,295</b>	<b>712</b>	<b>450</b>	<b>643</b>	<b>92</b>	<b>110</b>	<b>16,184</b>

(a) Year ended 30th June.  
included only once.

(b) A person committed on several counts at the one hearing is

The following table shows the number of committals to higher courts for each of the years 1958 to 1962.

#### COMMITTALS TO HIGHER COURTS

State or Territory	1958	1959	1960	1961	1962
New South Wales .. .. .	7,327	7,522	8,212	8,294	7,414
Victoria .. .. .	4,227	4,523	5,274	4,598	5,468
Queensland(a)(b) .. .. .	911	954	1,211	1,527	1,295
South Australia(a) .. .. .	505	558	542	671	712
Western Australia .. .. .	463	447	362	298	450
Tasmania .. .. .	600	529	475	725	643
Northern Territory .. .. .	66	93	26	86	92
Australian Capital Territory ..	74	65	97	65	110
<b>Australia .. .. .</b>	<b>14,173</b>	<b>14,691</b>	<b>16,199</b>	<b>16,264</b>	<b>16,184</b>

(a) Year ended 30th June.  
included only once.

(b) A person committed on several counts at the one hearing is

2. *Higher Courts.*—(i) *Offences for which Persons were convicted at Higher Courts, 1962.* The following table shows the number of persons convicted at higher courts in each of the States and Territories of Australia during 1962, classified according to the nature of the offence.

## PERSONS CONVICTED AT HIGHER COURTS, 1962

Offence	N.S.W.	Vic.	Qld (a)(b)	S.A.	W.A.	Tas. (c)	N.T.	A.C.T.	Aust.
<b>Against the person—</b>									
Infanticide .. .. .	..	..	..	1	2	..	..	..	3
Concealment of birth .. .. .	..	..	..	..	..	..	..	..	..
Murder .. .. .	17	8	7	2	..	4	..	..	38
Attempted murder .. .. .	3	..	2	4	..	3	1	..	13
Manslaughter(d) .. .. .	16	9	9	8	11	4	5	1	63
Culpable driving .. .. .	15	..	12	4	..	..	1	..	32
Rape .. .. .	10	7	18	1	10	2	..	..	48
Incest .. .. .	..	11	12	10	3	..	..	..	36
<b>Other offences against females</b> .. .. .	224	338	89	237	2	21	8	7	926
Abduction .. .. .	1	2	2	1	..	3	..	..	9
Unnatural offences .. .. .	109	101	12	33	8	4	5	..	272
Abortion and attempt to procure .. .. .	1	2	3	4	3	..	..	..	13
Bigamy .. .. .	17	8	3	4	..	..	..	..	32
Malicious wounding .. .. .	44	..	..	..	..	..	..	..	44
Attempted suicide .. .. .	..	2	..	..	..	..	..	..	2
Aggravated assault .. .. .	56	29	40	16	5	2	9	7	164
Common assault .. .. .	17	27	11	7	..	..	4	1	67
<b>Other offences against the person</b> .. .. .	17	92	2	..	..	11	..	2	124
<b>Total</b> .. .. .	547	636	222	332	44	54	33	18	1,886
<b>Against property—</b>									
Burglary, breaking and entering .. .. .	1,060	956	626	218	110	28	6	22	3,026
Robbery and stealing from the person .. .. .	72	34	23	10	6	152	1	..	298
Livestock stealing .. .. .	..	39	6	7	2	..	..	..	54
Embezzlement and fraudulent misappropriation .. .. .	70	22	9	15	8	4	2	1	131
Other larceny .. .. .	550	186	32	11	28	..	9	4	820
Unlawfully using vehicles .. .. .	1	33	146	..	3	..	..	..	183
Receiving .. .. .	52	31	43	12	4	8	2	1	173
Fraud and false pretences .. .. .	87	46	19	40	8	12	2	5	219
Arson .. .. .	4	16	12	1	1	..	..	6	40
Malicious damage .. .. .	13	14	1	1	..	..	2	..	31
<b>Other offences against property</b> .. .. .	17	23	15	7	..	..	1	..	63
<b>Total</b> .. .. .	1,926	1,420	932	322	170	204	25	39	5,038
<b>Forgery and offences against the currency</b> .. .. .	24	72	12	22	10	7	16	..	163
Against good order .. .. .	4	4	5	..	4	4	..	..	21
Other .. .. .	12	197	4	42	..	1	..	..	256
<b>Grand Total</b> .. .. .	2,513	2,329	1,175	718	228	270	74	57	7,364

(a) Year ended 30th June. (b) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately. (c) Convictions. (d) Includes causing death by dangerous driving.

(ii) *Persons Convicted at Higher Courts, 1958 to 1962.* The number of persons convicted at higher courts for the years 1958 to 1962 are given in the following table.

## PERSONS CONVICTED AT HIGHER COURTS

State or Territory	1958	1959	1960	1961	1962
New South Wales .. .. .	2,274	2,325	2,635	2,712	2,513
Victoria .. .. .	1,779	1,799	1,996	2,307	2,329
Queensland(a)(b) .. .. .	883	915	1,020	1,279	1,175
South Australia .. .. .	457	499	580	606	718
Western Australia .. .. .	255	216	183	203	228
Tasmania(c) .. .. .	276	290	295	304	270
Northern Territory .. .. .	31	69	29	87	74
Australian Capital Territory .. .. .	50	40	62	54	57
<b>Australia</b> .. .. .	<b>6,005</b>	<b>6,153</b>	<b>6,800</b>	<b>7,552</b>	<b>7,364</b>

(a) Year ended 30th June. (b) A person convicted on several counts at the one hearing is included only once. (c) Convictions.

The numbers of persons convicted at higher courts in Australia per 10,000 of population for the years 1958 to 1962 were:—1958, 6.1; 1959, 6.1; 1960, 6.6; 1961, 7.0; 1962, 6.9.

### § 5. Civil Cases

In interpreting the statistics in the two tables in this section, it should be borne in mind that there are factors which affect comparability between States and between courts.

The total number of plaints entered and amounts awarded plaintiffs in the lower courts, during 1962, are shown in the following table.

#### CIVIL CASES AT LOWER COURTS, 1962

Particulars	N.S.W.	Vic.	Qld (a)	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aus- tralia
Plaints entered No.	159,473	192,656	47,113	94,566	49,832	38,673	2,744	8,437	593,494
Amount awarded to plaintiffs £	2,120,496	4,340,179	1,290,943	2,065,832	899,590	591,566	42,265	97,398	11,448,269

(a) Year ended 30th June.

The following table shows the civil judgments (excluding those for divorce and bankruptcy) in the higher courts during 1962. The particulars given below include the number and amount of judgments entered by default or confession or agreement.

#### CIVIL CASES AT HIGHER COURTS, 1962

Particulars	N.S.W.	Vic.	Qld (a)	S.A.	W.A. (b)	Tas.	N.T.	A.C.T.	Total
Judgments No. Amount awarded £	48,672 n.a.	21,602 6,567,790	1,474 1,302,654	206 487,536	388 595,807	867 n.a.	n.a. n.a.	321 147,485	n.a. n.a.

(a) Year ended 30th June, 1962.

(b) Judgments signed and entered.

### § 6. Transactions of the High Court

The following table shows the transactions of the High Court for 1962 and 1963.

#### TRANSACTIONS OF THE HIGH COURT OF AUSTRALIA

Original jurisdiction(a)	1962		1963		Appellate jurisdiction	
	1962	1963	1962	1963	1962	1963
Number of writs issued ..	92	84	Number of appeals set down for hearing ..	132	118	
Number of cases entered for trial ..	51	42	Number allowed ..	36	33	
Judgments for plaintiffs ..	30	18	Number dismissed ..	52	62	
Judgments for defendants ..	2	4	Otherwise disposed of ..	20	23	
Otherwise disposed of ..	36	15				
Amount of judgments ..	£96,588	£125,823				

(a) Some matters dealt with by the High Court neither originate as writs nor are entered as cases.

During 1962 and 1963, respectively, the High Court dealt also with the following:— appeals from assessments under the Taxation Assessment Act, 49, 22; special cases stated for the opinion of the Full Court, 8, 13; applications for prohibition, etc., 23, 31. The fees collected amounted to £3,239 in 1962, and £3,289 in 1963.

### § 7. Divorce and Other Matrimonial Relief

1. **Separation and Maintenance Orders of Courts of Summary Jurisdiction.**—In all States and Territories, there are laws enabling a wife whose husband leaves her or the children of the marriage without adequate means of support to obtain a maintenance order against the husband from a court of summary jurisdiction. In some States and in the Northern Territory, courts of summary jurisdiction also have power to make separation orders. A separation order is intended primarily for the protection of the person of the wife.

2. **Divorce and Other Matrimonial Relief Granted by Higher Courts.**—A marriage may be terminated by a Supreme Court of a State or Territory in one of three ways. Firstly, there may be a dissolution of the marriage, commonly known as divorce; secondly, the courts may annul a marriage; and thirdly, there can be a judicial separation of the parties.

Until recently, each State was primarily responsible for the provision of matrimonial relief. The law varied from State to State; for example, as to the period of desertion needed to obtain a decree for the dissolution of marriage.

In 1959, however, the Commonwealth Parliament passed the *Matrimonial Causes Act 1959* which came into force on 1st February, 1961. The Act establishes uniform grounds throughout the whole of the Commonwealth for the termination of marriage. While the Act displaces corresponding State law, it vests jurisdiction in existing State and Territorial Courts.

Nearly all decrees granted in 1963 were for petitions filed since the operation of the Commonwealth Act.

3. **Matrimonial Causes Act 1959.**—Under the *Matrimonial Causes Act 1959*, a decree for the dissolution of marriage may be granted on fourteen grounds, which include adultery, desertion, insanity, separation for five years in certain circumstances, and failure to comply with a restitution decree.

Proceedings for nullity of marriage may be instituted in respect of a marriage which is void or voidable. A marriage which is void has no existence at all, and so it is not legally necessary to obtain a decree of nullity of marriage, but since the issue may depend on difficult questions of fact, such as proof that the consent of one of the parties to the marriage was not a real consent, it is advisable and customary to seek a court judgment which decides the question of the validity of the marriage.

Proceedings for annulling a voidable marriage may be instituted on various grounds, as, for example, where at the time of the marriage either party was a mental defective. A voidable marriage is void from the date of the decree absolute, but until then the parties have the status of married people, and transactions concluded on the basis of the existence of that status cannot be undone or re-opened. Since the parties to a marriage which is void or which has been voided do not have the status of married people, they may remarry.

The death of either husband or wife terminates any proceedings for matrimonial relief. A decree for dissolution or annulment of a voidable marriage is first a decree *nisi*. The decree automatically becomes absolute at the expiration of three months, unless it is in the meantime rescinded, appeal proceedings are instituted, or there are children of the marriage under the age of 16, in which case the Court must be satisfied that appropriate arrangements have been made for their welfare before the decree will become absolute. The parties cannot remarry until a decree *nisi* has become absolute.

A decree of judicial separation is available on most of the grounds available for divorce. It leaves unimpaired the status of marriage, but suspends rights and duties with respect to cohabitation. A husband is not responsible for the acts of his wife, except that he is liable for necessities supplied to her if he has failed to pay alimony ordered by a court. Persons who have judicially separated cannot remarry, but a divorce may be obtained on the same facts as those on which the decree of judicial separation was based.

The new Commonwealth Act provides for financial grants to approved marriage guidance organizations, and the courts are enjoined to consider at all times the possibility of reconciliation and they may take certain steps to endeavour to effect a reconciliation.

In the following tables, the term "divorce" is used to cover dissolution of marriage, nullity of marriage and judicial separation.

4. **Number of Petitions Filed.**—The following table shows the number of petitions for dissolution of marriage, nullity of marriage and judicial separation filed in each State during 1963.

PETITIONS FILED FOR DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATION, 1963

Petition for—	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
Dissolution of marriage—									
Husband petitioner ..	1,716	942	474	386	290	125	30	37	4,000
Wife petitioner ..	2,623	1,221	587	619	333	146	20	53	5,602
Total ..	4,339	2,163	1,061	1,005	623	271	50	90	9,602
Nullity of marriage—									
Husband petitioner ..	5	1	..	2	2	1	..	..	11
Wife petitioner ..	13	6	3	3	2	..	..	1	28
Total ..	18	7	3	5	4	1	..	1	39
Dissolution or nullity—									
Husband petitioner ..	1	3	..	1	..	..	..	..	5
Wife petitioner ..	4	5	1	..	..	..	..	..	10
Total ..	5	8	1	1	..	..	..	..	15
Judicial separation—									
Husband petitioner ..	..	1	1	1	..	..	..	..	3
Wife petitioner ..	8	6	3	2	2	1	..	4	26
Total ..	8	7	4	3	2	1	..	4	29
Dissolution or judicial separation—									
Husband petitioner ..	..	1	..	..	..	..	..	..	1
Total ..	..	1	..	..	..	..	..	..	1
Total petitions—									
Husband petitioner No.	1,722	948	475	390	292	126	30	37	4,020
Per cent.	39	43	44	38	47	46	60	39	42
Wife petitioner No.	2,648	1,238	594	624	337	147	20	58	5,666
Per cent.	61	57	56	62	53	54	40	61	58
Grand Total ..	4,370	2,186	1,069	1,014	629	273	50	95	9,686

5. Number of Divorces Granted.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State during 1963.

DISSOLUTIONS OF MARRIAGE, NULLITIES OF MARRIAGE AND JUDICIAL SEPARATIONS GRANTED, 1963

Decree for—	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
Dissolution of marriage(a)—									
Husband petitioner ..	1,363	759	396	308	251	108	23	18	3,226
Wife petitioner ..	1,930	857	514	390	299	152	15	23	4,180
Petition by both ..	..	..	..	..	3	..	..	..	3
Total ..	3,293	1,616	910	698	553	260	38	41	7,409
Nullity of marriage(b)—									
Husband petitioner ..	2	2	2	..	..	..	..	..	6
Wife petitioner ..	9	5	4	5	1	..	..	..	24
Total ..	11	7	6	5	1	..	..	..	30
Judicial separation—									
Husband petitioner ..	..	..	..	..	..	..	..	..	..
Wife petitioner ..	..	3	3	..	..	1	..	..	7
Total ..	..	3	3	..	..	1	..	..	7
Total decrees—									
Husband petitioner No.	1,365	761	398	308	251	108	23	18	3,232
Per cent.	41	47	43	44	45	41	61	44	43
Wife petitioner No.	1,939	865	521	395	300	153	15	23	4,211
Per cent.	59	53	57	56	55	59	39	56	57
Petition by both No.	..	..	..	..	3	..	..	..	3
Grand Total ..	3,304	1,626	919	703	554	261	38	41	7,446

(a) Decrees absolute. (b) Final decrees.

6. Number of Divorces Granted, 1959 to 1963.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State and Territory for each year from 1959 to 1963.

**DISSOLUTIONS OF MARRIAGE, NULLITIES OF MARRIAGE AND JUDICIAL SEPARATIONS GRANTED**

State or Territory	1959	1960	1961	1962	1963
<b>DISSOLUTIONS OF MARRIAGE(a)</b>					
New South Wales .. .. .	3,363	3,243	3,156	3,113	3,293
Victoria .. .. .	1,861	1,296	1,248	1,615	1,616
Queensland .. .. .	739	696	779	920	910
South Australia .. .. .	503	610	679	660	698
Western Australia .. .. .	584	540	466	582	553
Tasmania .. .. .	222	210	286	248	260
Northern Territory .. .. .	14	5	23	38	38
Australian Capital Territory .. .. .	29	33	36	44	41
<i>Australia</i> .. .. .	<i>7,315</i>	<i>6,633</i>	<i>6,673</i>	<i>7,220</i>	<i>7,409</i>

<b>NULLITIES OF MARRIAGE(b)</b>					
New South Wales .. .. .	23	27	18	18	11
Victoria .. .. .	16	16	9	8	7
Queensland .. .. .	5	7	2	5	6
South Australia .. .. .	7	9	6	6	5
Western Australia .. .. .	2	2	..	2	1
Tasmania .. .. .	..	..	..	1	..
Northern Territory .. .. .	..	1	..	..	..
Australian Capital Territory .. .. .	..	1	1	..	..
<i>Australia</i> .. .. .	<i>53</i>	<i>63</i>	<i>36</i>	<i>40</i>	<i>30</i>

<b>JUDICIAL SEPARATIONS</b>					
New South Wales .. .. .	..	5	1	..	..
Victoria .. .. .	..	1	..	..	3
Queensland .. .. .	1	2	..	3	3
South Australia .. .. .	..	..	..	1	..
Western Australia .. .. .	1	5	1	1	..
Tasmania .. .. .	..	..	..	..	1
Northern Territory .. .. .	..	..	..	..	..
Australian Capital Territory .. .. .	..	..	..	..	..
<i>Australia</i> .. .. .	<i>2</i>	<i>13</i>	<i>2</i>	<i>5</i>	<i>7</i>

<b>TOTAL DIVORCES GRANTED</b>					
<b>Grand Total</b> .. .. .	<b>7,370</b>	<b>6,709</b>	<b>6,711</b>	<b>7,255</b>	<b>7,446</b>

(a) Decrees absolute.

(b) Final decrees.

7. Average Number of Divorces granted Annually.—The ten-year averages of the numbers of divorces (i.e., dissolutions, nullities and judicial separations) granted annually in Australia for the 80 years from 1881 to 1960 are as follows.

DIVORCES: AUSTRALIA

Decade	1881-90	1891-1900	1901-10	1911-20	1921-30	1931-40	1941-50	1951-60
Average	70	357	399	741	1,692	2,508	6,187	6,973

8. Grounds on which Divorces were Granted.—The grounds on which dissolutions of marriage, nullities of marriage and judicial separations were granted in each State and Territory during 1963 are shown in the following table. Some of the decrees granted during 1963 were for petitions lodged under the former, superseded legislation.

GROUND OF DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATIONS, 1963

Ground	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
<b>DISSOLUTION OF MARRIAGE</b>									
<b>Single Grounds—</b>									
Desertion .. .. .	1,658	642	482	240	161	112	14	15	3,324
Adultery .. .. .	713	278	157	189	192	58	8	16	1,611
Separation .. .. .	541	255	185	147	142	63	9	..	1,342
Cruelty .. .. .	123	14	19	74	3	2	..	5	240
Drunkenness .. .. .	48	7	4	6	3	5	..	..	73
Frequent convictions .. .. .	7	..	1	2	1	2	..	..	13
Failure to pay maintenance .. .. .	1	2	..	2	5	..	..	..	10
Non-compliance with restitution decrees .. .. .	38	..	..	1	1	..	..	..	40
Insanity .. .. .	13	..	3	2	..	2	..	..	21
Refusal to consummate .. .. .	6	4	2	..	2	..	..	..	14
Imprisonment .. .. .	1	1	1	..	1	..	..	..	4
Other single grounds .. .. .	1	..	..	..	1	4	..	..	6
<b>Dual Grounds—</b>									
Desertion and adultery .. .. .	21	62	14	5	6	2	3	2	115
Desertion and separation .. .. .	36	266	26	15	16	7	2	1	369
Desertion and cruelty .. .. .	22	15	6	3	2	..	1	2	51
Desertion and drunkenness .. .. .	10	4	1	1	2	..	..	..	18
Desertion and frequent convictions .. .. .	..	2	..	..	1	..	..	..	3
Desertion and failure to pay maintenance .. .. .	3	4	..	..	..	..	..	..	7
Adultery and separation .. .. .	2	6	2	..	3	..	..	..	13
Adultery and cruelty .. .. .	2	5	..	2	..	..	..	..	9
Cruelty and drunkenness .. .. .	40	11	6	4	..	3	1	..	65
Separation and failure to pay maintenance .. .. .	..	1	..	..	6	..	..	..	7
Refusal to consummate and desertion .. .. .	1	3	..	1	..	..	..	..	5
Other dual grounds .. .. .	1	2	1	2	1	..	..	..	7
Multiple grounds (a) .. .. .	5	31	..	2	4	..	..	..	42
<b>Total .. .. .</b>	<b>3,293</b>	<b>1,616</b>	<b>910</b>	<b>698</b>	<b>553</b>	<b>260</b>	<b>38</b>	<b>41</b>	<b>7,409</b>

NULLITY OF MARRIAGE

Bigamy .. .. .	2	1	3	2	..	..	..	..	8
Incapacity to consummate .. .. .	9	5	3	3	1	..	..	..	21
Invalid marriage .. .. .	..	1	..	..	..	..	..	..	1
<b>Total .. .. .</b>	<b>11</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>30</b>

(a) Three grounds or more.

**GROUND OF DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE  
AND JUDICIAL SEPARATION, 1963—continued**

Ground	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
<b>JUDICIAL SEPARATION</b>									
Cruelty .. .. .	..	2	..	..	..	..	..	..	2
Desertion .. .. .	..	..	2	..	..	..	..	..	2
Adultery .. .. .	..	1	..	..	..	1	..	..	2
Desertion and cruelty .. .. .	..	..	1	..	..	..	..	..	1
<i>Total</i> .. .. .	..	3	3	..	..	1	..	..	7

**TOTAL DIVORCES GRANTED**

<b>Grand Total</b> .. .. .	3,304	1,626	919	703	554	261	38	41	7,446
----------------------------	-------	-------	-----	-----	-----	-----	----	----	-------

9. **Ages of Husband and Wife at Time of Marriage.**—The following table shows the ages at time of marriage of husbands and wives who were parties to marriages dissolved in 1963.

**DISSOLUTIONS: AGES OF PARTIES AT TIME OF MARRIAGE, AUSTRALIA, 1963**

Age of husband (years)	Age of wife (years)										Total husbands	
	Under 20	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60 and over		Not stated
Under 20 .. .. .	349	91	4	2	1	..	..	..	..	..	..	447
20-24 .. .. .	1,440	1,710	244	34	4	1	1	..	..	1	..	3,436
25-29 .. .. .	375	1,064	437	112	22	7	2	..	..	..	1	2,021
30-34 .. .. .	83	259	209	107	53	11	2	2	..	..	..	726
35-39 .. .. .	23	85	87	70	38	26	5	4	..	..	..	338
40-44 .. .. .	5	22	24	53	43	25	12	3	..	..	..	187
45-49 .. .. .	1	7	21	18	25	19	11	6	1	1	..	110
50-54 .. .. .	3	4	4	7	11	12	10	10	2	..	..	63
55-59 .. .. .	..	3	..	2	4	4	3	4	3	2	..	25
60 and over .. .. .	..	..	2	1	3	3	4	5	6	4	..	28
Not stated .. .. .	..	..	1	..	..	..	..	1	..	..	26	28
<b>Total Wives</b> .. .. .	<b>2,279</b>	<b>3,245</b>	<b>1,033</b>	<b>406</b>	<b>204</b>	<b>108</b>	<b>50</b>	<b>35</b>	<b>12</b>	<b>8</b>	<b>29</b>	<b>7,409</b>

10. **Ages of Husband and Wife at Time of Dissolution of Marriage.**—The following table shows the number of husbands and wives in each age group who were parties to marriages dissolved in 1963. Age is taken at the time the decree absolute was made.

DISSOLUTIONS: AGES OF PARTIES AT TIME OF DISSOLUTION OF MARRIAGE, AUSTRALIA, 1963

Age of husband (years)	Age of wife (years)										Total husbands	
	Under 20	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60 and over		Not stated
20-24 ..	9	115	26	4	..	..	..	..	..	..	..	154
25-29 ..	5	309	466	51	7	2	..	..	..	..	..	840
30-34 ..	..	83	608	554	91	19	2	..	..	..	..	1,358
35-39 ..	..	18	152	568	522	116	26	10	1	..	1	1,414
40-44 ..	..	5	26	169	449	444	73	16	9	1	1	1,193
45-49 ..	..	..	9	43	125	335	297	71	9	4	..	893
50-54 ..	..	1	4	12	47	130	246	194	45	7	1	687
55-59 ..	..	..	2	3	18	40	83	160	102	34	..	442
60 and over ..	..	1	..	4	8	18	39	60	93	177	..	400
Not stated ..	..	..	..	1	..	..	..	..	1	..	26	28
<b>Total Wives</b>	<b>14</b>	<b>532</b>	<b>1,293</b>	<b>1,409</b>	<b>1,267</b>	<b>1,104</b>	<b>766</b>	<b>511</b>	<b>260</b>	<b>224</b>	<b>29</b>	<b>7,409</b>

11. Duration of Marriages Dissolved and Number of Children.—The following table shows the number of dissolutions of marriage granted in 1963, classified according to the legal duration of the marriage (i.e., the period from the date of marriage to the date when the decree  *nisi* was made absolute) and number of children.

DURATION OF MARRIAGES DISSOLVED AND NUMBER OF CHILDREN(a): AUSTRALIA, 1963

Duration of marriage (years)	Dissolutions of marriages with—											Total dissolutions of marriage	Total children (a)	
	No children	1 child	2 children	3 children	4 children	5 children	6 children	7 children	8 children	9 children	10 children			11 children and over
Under 1 year	1	..	..	..	..	..	..	..	..	..	..	..	1	..
1 year and under 2 ..	11	..	2	..	..	..	..	..	..	..	..	..	13	4
2 years and under 3 ..	30	7	2	..	1	..	..	..	..	..	..	..	40	15
3 " " " " 4 ..	77	37	5	..	..	..	..	..	..	..	..	..	119	47
4 " " " " 5 ..	189	99	31	5	4	..	..	..	..	..	..	..	328	192
5 " " " " 6 ..	191	107	41	4	2	..	..	..	..	..	..	..	345	209
6 " " " " 7 ..	202	144	52	16	4	..	..	..	..	..	..	..	418	312
7 " " " " 8 ..	186	140	87	21	5	..	..	..	..	..	..	..	439	397
8 " " " " 9 ..	147	111	83	39	10	..	..	..	..	..	..	..	390	434
9 " " " " 10 ..	162	109	88	33	6	3	1	..	..	..	..	..	402	429
10 " " " " 11 ..	123	103	97	27	15	1	..	..	..	..	..	..	366	443
11 " " " " 12 ..	110	82	84	39	17	6	1	1	..	..	..	..	340	478
12 " " " " 13 ..	78	83	107	28	25	5	..	..	..	..	..	..	326	506
13 " " " " 14 ..	92	89	93	26	23	5	1	..	..	..	..	..	329	476
14 " " " " 15 ..	86	64	71	61	10	4	3	..	..	..	..	..	299	467
15 " " " " 16 ..	85	69	97	55	19	3	..	..	..	..	..	..	328	519
16 " " " " 17 ..	55	71	95	49	16	4	1	1	..	..	..	..	292	505
17 " " " " 18 ..	77	71	79	45	15	3	6	1	..	..	..	..	297	482
18 " " " " 19 ..	40	56	73	32	21	7	6	..	..	..	..	..	235	453
19 " " " " 20 ..	36	44	58	33	13	6	3	..	..	..	..	..	194	366
20 " " " " 21 ..	43	51	50	33	17	8	2	2	1	..	..	..	207	392
21 " " " " 25 ..	200	157	194	91	43	8	2	1	3	1	..	1	699	1,081
25 " " " " 30 ..	268	121	78	22	14	4	2	..	..	..	..	..	510	439
30 " " " " 40 ..	191	36	23	7	1	..	..	..	..	..	..	..	258	107
35 " " " " 45 ..	123	10	5	1	..	2	..	..	..	..	..	..	141	33
40 " " " " ..	58	2	1	1	..	..	..	..	..	..	..	..	62	7
45 " " and over ..	29	2	..	..	..	..	..	..	..	..	..	..	31	2
<b>Total Dissolutions of Marriage</b>	<b>2,890</b>	<b>1,865</b>	<b>1,596</b>	<b>668</b>	<b>281</b>	<b>69</b>	<b>26</b>	<b>7</b>	<b>5</b>	<b>1</b>	<b>..</b>	<b>1</b>	<b>7,409</b>	<b>..</b>
<b>Total Children (a)</b>	<b>..</b>	<b>1,865</b>	<b>3,192</b>	<b>2,004</b>	<b>1,124</b>	<b>345</b>	<b>156</b>	<b>49</b>	<b>40</b>	<b>9</b>	<b>..</b>	<b>11</b>	<b>..</b>	<b>8,795</b>

(a) The term "children" used in the Commonwealth legislation refers to living "children of the marriage" under 21 years, but the table above includes a small number of dissolutions granted to petitions filed under old legislation in which the term "children" was used differently.

12. Ages of Children of Dissolved Marriages. The following table shows the ages of children of marriages dissolved in 1963. The children referred to are those under 21 years of age at the time of petition.

**CHILDREN OF DISSOLVED MARRIAGES(a), BY AGE AT TIME OF PETITION:  
AUSTRALIA, 1963**

Petitioner	Age of children at time of petition—																	Total number of children	
	Under 12 mths	1 yr	2 yrs	3 yrs	4 yrs	5 yrs	6 yrs	7 yrs	8 yrs	9 yrs	10 yrs	11 yrs	12 yrs	13 yrs	14 yrs	15 yrs	16-20 yrs		Not stated
Husband ..	21	63	110	180	217	220	246	214	251	200	196	201	190	204	188	178	610	11	3,500
Wife ..	34	91	211	279	320	334	345	330	347	353	345	324	329	289	291	271	799	1	5,293
Both ..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	1	..	..	..	2
<b>Total ..</b>	<b>55</b>	<b>154</b>	<b>321</b>	<b>459</b>	<b>537</b>	<b>554</b>	<b>591</b>	<b>544</b>	<b>598</b>	<b>554</b>	<b>541</b>	<b>525</b>	<b>519</b>	<b>493</b>	<b>480</b>	<b>449</b>	<b>1,409</b>	<b>12</b>	<b>8,795</b>

(a) This table refers to children, under 21 years at time of petition, of marriages for which decree absolute for dissolution have been granted in 1961 and 1962. See also footnote (a) to table preceding.

13. Number of Divorced Persons at each Census, 1911 to 1961.—The following table shows the number and proportion of divorced persons in Australia as recorded from returns supplied at each census from 1911 to 1961. A classification of divorced persons by age, for the censuses from 1891 to 1947, appeared in earlier issues of the Year Book (see No. 39, p. 269). Prior to 1911, no record was made of divorced persons in South Australia, so comparisons cannot be made beyond that date.

**DIVORCED PERSONS AT CENSUS DATES: AUSTRALIA**

Sex	Number						Proportion per 10,000 of males or females, 15 years of age and over					
	1911	1921	1933	1947	1954	1961	1911	1921	1933	1947	1954	1961
Males ..	2,368	4,233	10,298	25,052	32,389	38,641	15	23	42	89	100	105
Females ..	2,140	4,304	10,888	27,516	36,650	43,339	15	24	46	96	115	119

**§ 8. Bankruptcy**

1. General.—Particulars of bankruptcy in each State to the end of 1927 were incorporated in issues of the Year Book prior to No. 23. On 1st August, 1928, the Bankruptcy Act of the Commonwealth which is now the *Bankruptcy Act 1924-1960*, came into operation.

Under the *Bankruptcy Act 1924-1960*, the Commonwealth is divided into bankruptcy districts which coincide generally with State boundaries. A Federal Court of Bankruptcy has been established with jurisdiction throughout Australia, but it exercises this jurisdiction mainly in the bankruptcy districts of New South Wales, which includes the Australian Capital Territory, and Victoria. Certain State courts have been invested with federal jurisdiction in bankruptcy and, outside New South Wales and Victoria, usually exercise that jurisdiction in the appropriate bankruptcy district.

Any person unable to pay his debts may apply voluntarily for the sequestration of his estate, or his creditors may apply for a compulsory sequestration, if he has committed an act of bankruptcy. The act of bankruptcy usually relied on is non-compliance by a debtor with a bankruptcy notice which requires the debtor to whom it is addressed to pay within a specified time, to a creditor who has obtained a final judgment or order to pay, the amount of the debt, or satisfy the Court that he has a counter claim, set-off, or cross demand which equals or exceeds the judgment debt. If a bankruptcy notice is not complied with, a creditor may thereupon present a petition against a debtor, provided that—the debt or debts amount to £50; the act of bankruptcy relied on has occurred within the six months preceding the presentation of the petition; and the statutory requirements relating to domicile or residence are applicable to the debtor.

Upon the issue of a sequestration order, the property of the bankrupt vests in the official receiver named in the order, and his property is divisible among his creditors in accordance with the provisions of the Act. No creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy has any remedy against the property or person of the bankrupt except by leave of the court.

Under Part XI. of the *Bankruptcy Act 1924–1960*, instead of having a sequestration order made against his estate, a debtor may compound with his creditors or assign his estate for their benefit. Under Part XII of the Act, a debtor may enter into a scheme of arrangement. The object of Parts XI and XII of the Act is to allow a debtor and his creditors to enter into an agreement concerning the debts due to the creditors without having a sequestration order made against the debtor.

The Court has power to decide questions of law affecting a bankrupt estate. Questions of fact may be tried before a jury.

The *Bankruptcy Act 1924–1960* provides for an Inspector-General in Bankruptcy. It also provides for a Registrar and an Official Receiver to be appointed for each bankruptcy district.

A Registrar in Bankruptcy is controlled by the Court and has such duties as the Attorney-General of the Commonwealth directs, or as are prescribed, and exercises such functions of an administrative nature as are authorized by the Court. He may examine a bankrupt or a person indebted to a bankrupt or having in his possession any of the estate or effects of a bankrupt. Stipendiary magistrates are appointed Deputy Registrars in country districts.

All sequestrated estates are vested in an Official Receiver, who is a permanent officer of the Commonwealth Public Service. His duties are to investigate the conduct, property and transactions of the debtor, and the cause of bankruptcy of a debtor, and to realize and administer the estate of the debtor. In respect of these activities, the Official Receiver is under the control of the Court.

Persons registered by the Court as qualified to act as trustees may be appointed by resolution of the creditors to be trustees of estates. In cases where a registered trustee under a deed of arrangement, composition, or assignment (Parts XI and XII of the *Bankruptcy Act*) is removed from or vacates his office, the official receiver may be appointed by the Court to complete the administration of the estate, or the Court may direct the official receiver to convene a meeting of the creditors in the estate to enable them to appoint a registered trustee to complete the administration of the estate.

**2. Bankruptcy Proceedings.**—The following table shows the number of bankruptcies of the various types in each State, together with the assets and liabilities of the debtors, during the twelve months ended 30th June, 1963.

## BANKRUPTCY PROCEEDINGS, 1962-63

State or Territory		Sequestration orders and orders for administration of deceased debtors' estates	Compositions and schemes under Part XI	Deeds under Part XI	Deeds of arrangement, Part XII	Total
N.S.W. (a)	Number ..	806	8	2	56	872
	Liabilities £	2,919,822	105,864	39,136	637,634	3,702,456
	Assets £	1,298,206	86,628	116,142	471,385	1,972,361
Vic. ..	Number ..	511	32	3	79	625
	Liabilities £	1,679,515	434,778	30,978	644,407	2,789,678
	Assets £	621,980	369,869	19,499	670,231	1,681,579
Q'land	Number ..	236	1	1	20	258
	Liabilities £	840,187	12,060	3,818	263,819	1,119,884
	Assets £	472,836	8,872	3,200	227,362	712,270
S. Aust.	Number ..	528	79	10	..	617
	Liabilities £	904,695	470,294	85,014	..	1,460,003
	Assets £	354,641	369,367	69,033	..	793,041
W. Aust.	Number ..	171	63	5	2	241
	Liabilities £	265,162	865,047	25,911	29,246	1,185,366
	Assets £	76,635	935,964	25,411	32,474	1,070,484
Tas. ..	Number ..	116	..	2	1	119
	Liabilities £	383,755	..	31,057	7,430	422,242
	Assets £	137,878	..	23,490	4,886	166,254
N.T. ..	Number ..	3	..	..	..	3
	Liabilities £	11,992	..	..	..	11,992
	Assets £	283	..	..	..	283
Australia	Number ..	2,371	183	23	158	2,735
	Liabilities £	7,005,128	1,888,043	215,914	1,582,536	10,691,621
	Assets £	2,962,459	1,770,700	256,775	1,406,338	6,396,272

(a) Includes the Australian Capital Territory.

For purposes of comparison, the two tables which follow show Australian figures in respect of each of the various types of bankruptcy, and State figures in respect of all types of bankruptcy for the past five years.

## BANKRUPTCY PROCEEDINGS: AUSTRALIA

Year		Sequestration orders and orders for administration of deceased debtors' estates	Compositions and schemes under Part XI	Deeds under Part XI	Deeds of arrangement, Part XII	Total
1958-59	Number ..	1,603	131	19	196	1,949
	Liabilities £	4,534,479	608,040	198,730	1,844,512	7,185,761
	Assets £	2,089,842	697,414	145,712	1,594,706	4,527,674
1959-60	Number ..	1,949	119	28	192	2,288
	Liabilities £	5,126,243	529,885	161,978	1,961,335	7,779,441
	Assets £	2,738,689	411,084	176,205	1,531,283	4,857,261
1960-61	Number ..	2,004	118	21	225	2,368
	Liabilities £	5,609,860	424,969	189,434	2,170,643	8,394,906
	Assets £	3,333,274	325,602	196,254	1,665,396	5,520,526
1961-62	Number ..	2,239	172	31	218	2,660
	Liabilities £	6,988,310	1,078,263	237,796	1,636,481	9,940,850
	Assets £	3,503,851	873,393	193,760	1,384,849	5,955,853
1962-63	Number ..	2,371	183	23	158	2,735
	Liabilities £	7,005,128	1,888,043	215,914	1,582,536	10,691,621
	Assets £	2,962,459	1,770,700	256,775	1,406,338	6,396,272

## BANKRUPTCY PROCEEDINGS: STATES

Year	N.S.W. (a)	Vic.	Qld	S.A.	W.A.	Tas.	N.T.	Aus- ralia.
1958-59	Number .. 745	394	200	316	206	88	..	1,949
	Liabilities £ 2,683,920	1,713,739	832,572	707,481	1,057,664	190,385	..	7,185,761
	Assets £ 1,661,574	952,691	656,757	371,488	775,328	109,836	..	4,527,674
1959-60	Number .. 892	494	234	372	199	96	1	2,288
	Liabilities £ 3,216,889	2,019,268	725,189	801,093	628,876	373,246	14,880	7,779,441
	Assets £ 2,001,621	1,182,287	631,121	446,738	412,387	168,030	15,077	4,857,261
1960-61	Number .. 868	489	253	468	206	81	3	2,368
	Liabilities £ 3,305,964	1,951,320	952,715	1,343,854	545,522	287,718	7,813	8,394,906
	Assets £ 2,342,275	1,297,881	725,656	696,223	327,729	125,340	5,422	5,520,526
1961-62	Number .. 865	587	285	581	238	98	6	2,660
	Liabilities £ 3,260,021	2,406,429	1,320,514	1,756,016	863,282	306,171	28,417	9,940,850
	Assets £ 2,061,455	1,003,823	1,172,556	1,051,451	492,323	164,418	9,827	5,955,853
1962-63	Number .. 872	625	258	617	241	119	3	2,735
	Liabilities £ 3,702,456	2,789,678	1,119,884	1,466,003	1,185,366	422,242	11,992	10,691,621
	Assets £ 1,972,361	1,681,579	712,270	793,041	1,070,484	166,254	283	6,396,272

(a) Includes the Australian Capital Territory.

## § 9. Police

1. General.—The primary duties of the police are to prevent crime, to detect and detain offenders, to protect life and property, to enforce the law, and to maintain peace and good order. In addition, they perform many duties in the service of the State, e.g. they act as clerks of petty sessions in small centres, as crown land bailiffs, foresters, mining wardens and inspectors under the fisheries and various other Acts. In metropolitan and large country areas, they also regulate the street traffic. With the exception of the Commonwealth Police Force (see next page) and the police in the Northern Territory and the Australian Capital Territory, the police forces of Australia are under the control of the State Governments, but their members perform certain functions for the Commonwealth Government, such as acting as aliens registration officers and policing various acts and regulations.

Women police perform special duties at places where young women and girls are subject to moral danger, control traffic at school crossings, and lecture school children on road safety. They also assist male police as required in the performance of normal police duties.

The strength of the police force in each State and Territory and the number of persons to each police officer are shown in the following table for the years 1959 to 1963. The figures include traffic and water police, probationers, cadets, special constables and women police, but exclude parking police, native trackers (Aboriginals employed in outlying districts in tracking lost persons and persons wanted by the police), female searchers, wardresses and interpreters.

## STRENGTH OF POLICE FORCES

30th June—	N.S.W.	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Aus- ralia
<b>TOTAL STRENGTH</b>									
1959 .. ..	5,245	3,753	2,678	1,425	1,056	524	102	73	14,856
1960 .. ..	5,378	3,867	2,647	1,498	1,142	550	103	77	15,262
1961 .. ..	5,575	4,025	2,673	1,694	1,169	558	105	89	15,888
1962 .. ..	5,687	4,127	2,748	1,727	1,164	579	125	101	16,258
1963 .. ..	5,826	4,290	2,798	1,752	1,184	629	137	115	16,731

## POPULATION TO EACH POLICE OFFICER

1959 .. ..	717	742	548	646	674	648	236	631	677
1960 .. ..	713	739	565	631	632	625	248	680	673
1961 .. ..	703	728	568	572	630	628	258	661	661
1962 .. ..	699	725	561	573	648	617	222	650	659
1963 .. ..	695	712	560	576	525	574	215	639	653

STRENGTH OF POLICE FORCES—*continued*

30th June—	N.S.W.	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Australia
NUMBER OF POLICEWOMEN(a)									
1959 .. ..	48	50	9	33	12	8	..	2	162
1960 .. ..	54	55	9	34	13	10	..	2	177
1961 .. ..	58	58	9	35	14	10	5	2	191
1962 .. ..	57	60	8	39	14	10	2	2	192
1963 .. ..	57	58	7	39	15	10	6	2	194
NUMBER OF NATIVE TRACKERS(b)									
1959 .. ..	5	1	24	(c)	4	..	35	..	69
1960 .. ..	5	1	18	(c)	4	..	32	..	60
1961 .. ..	5	1	17	(c)	4	..	31	..	58
1962 .. ..	5	1	16	(c)	4	..	34	..	60
1963 .. ..	5	1	14	(c)	4	..	30	..	54

(a) Included in total strength shown above. (b) Not included in total strength shown above.  
(c) One native tracker, who is paid a small weekly retainer and is supplied with rations, is continually on call.

2. The Commonwealth Police Force.—The Commonwealth Police Force commenced operations on 21st April, 1960, and is the principal agency for the enforcement of the laws passed by the Commonwealth Parliament. It is also responsible for the protection of Commonwealth property and interests at various buildings and establishments under the control of the Commonwealth. This force co-ordinates the work of other Commonwealth investigation and law enforcement agencies and acts on behalf of the United Nations Organization for the suppressing of traffic in women and the suppression of obscene literature.

Under the control of the force is the Australian Police College at Manly, N.S.W., which provides training for officers of various police forces and other agencies in Australia and New Zealand.

The force has District Offices in each Capital City and its Head Office in Canberra. The strength of the force at 30th June, 1963, was 563 policemen and 3 policewomen. Twenty-eight guard dogs were available for use by the force and by State police forces as required.

## § 10. Prisons

1. Prisons and Prison Accommodation.—The table below shows the number of prisons in each State and the Northern Territory and the accommodation therein at 30th June, 1962.

## PRISONS AND PRISON ACCOMMODATION, 1962

Particulars	N.S.W.	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	Australia
Prisons .. ..	18	12	7	15	19	1	2	74
Accommodation .. ..	3,100	2,346	925	1,018	906	381	87	8,763

There is no gaol in the Australian Capital Territory, but there is a lock-up attached to the police station at Canberra, and another lock-up at Jervis Bay, where offenders are held while awaiting trial or serving short sentences not exceeding one week imposed by a Magistrate's Court.

2. **Convicted Prisoners.**—The number of convicted prisoners at 30th June of each of the years 1958 to 1962 and the proportion per 10,000 of the population are shown in the following table.

**CONVICTED PRISONERS**

30th June—	N.S.W. (a)	Vic.	Q'land (b)	S. Aust. (b)	W. Aust. (b)	Tas. (b)	N.T. (b)	Aus- tralia
NUMBER								
1958 .. ..	3,126	1,397	799	526	527	196	32	6,603
1959 .. ..	2,895	1,539	868	577	477	223	28	6,607
1960 .. ..	2,903	1,678	865	570	526	195	26	6,763
1961 .. ..	3,090	1,827	877	592	526	237	41	7,190
1962 .. ..	3,052	1,844	843	658	573	207	49	7,226

**NUMBER PER 10,000 OF POPULATION**

1958 .. ..	8.5	5.1	5.6	5.9	7.5	5.9	14.5	6.7
1959 .. ..	7.7	5.5	5.9	6.3	6.7	6.6	11.6	6.6
1960 .. ..	7.6	5.9	5.8	6.0	7.3	5.7	10.2	6.6
1961 .. ..	7.9	6.2	5.8	6.1	7.1	6.8	15.1	6.8
1962 .. ..	7.6	6.1	5.4	6.6	7.6	5.7	17.6	6.7

(a) Includes the Australian Capital Territory. Includes short-term prisoners held in lock-ups at police stations.  
(b) Excludes Aborigines.

**§ 11. Patents, Trade Marks and Designs**

1. **Patents.**—Patents for inventions are granted under the *Patents Act 1952-1960*, which applies to the Commonwealth of Australia and the Territories of Norfolk Island, Papua and New Guinea. The Act is administered by a Commissioner of Patents. The principal fees payable up to and including the grant of a patent amount to £19 10s. Renewal fees are payable as follows:—£5 before the expiration of the fourth year, and an amount progressively increasing by £1 before the expiration of each succeeding year up to the final fee of £16, payable before the expiration of the fifteenth year. An extension of time for six months for payment of a renewal fee may be obtained.

The number of separate inventions in respect of which applications were filed and the number of letters patent sealed during the years 1959 to 1963 are shown in the following table.

**PATENTS: AUSTRALIA**

Particulars	1959	1960	1961	1962	1963
Applications .. ..	11,430	11,828	12,901	13,026	13,051
Applications accompanied by provisional specifications ..	4,063	3,772	3,919	3,710	3,557
Letters patent sealed ..	5,488	4,857	4,940	3,866	5,361

2. **Trade Marks and Designs.**—Under the *Trade Marks Act 1955-1958* the Commissioner of Patents is also Registrar of Trade Marks. Provision is made for the registration of users of trade marks and for their assignment with or without the goodwill of the business concerned. A new classification of goods was adopted in 1958, and trade marks registered under repealed Acts are reclassified on renewal.

Under the *Designs Act* 1906–1950, the Commissioner of Patents is also Registrar of Designs.

The following table shows the applications for trade marks and designs received and registered during the years 1959 to 1963.

#### TRADE MARKS AND DESIGNS: AUSTRALIA

Particulars	1959	1960	1961	1962	1963
Trade marks—					
Received .. ..	5,436	6,083	6,209	5,920	6,411
Registered .. ..	3,792	3,203	4,592	3,558	4,224
Designs—					
Received .. ..	1,366	1,283	1,413	1,392	1,425
Registered .. ..	819	1,507	1,522	1,064	1,251

### § 12. Copyright

1. **Legislation.**—Copyright is regulated by the *Commonwealth Copyright Act* 1912–1950 wherein, subject to modifications relating to procedure and remedies, the British *Copyright Act* of 1911 has been adopted and scheduled to the Australian law. The Act is administered by the Commissioner of Patents.

Reciprocal protection of unpublished works was extended in 1918 to citizens of Australia and of the United States of America, under which copyright may be secured in the latter country by registration at the Library of Congress, Washington. The Commonwealth Government promulgated a further Order-in-Council which came into operation on 1st February, 1923, and extended the provisions of the Copyright Act to the foreign countries of the Copyright Union, subject to the observance of the conditions contained therein.

2. **Applications and Registrations.**—The following table shows under the various headings the number of applications for copyright lodged and registered for the years 1959 to 1963.

#### COPYRIGHT: AUSTRALIA

Particulars	1959	1960	1961	1962	1963
Applications lodged—					
Literary .. ..	1,153	1,042	1,088	1,131	1,236
Artistic .. ..	65	53	65	31	29
International .. ..	..	..	..	..	..
Applications registered—					
Literary .. ..	1,038	916	1,005	1,172	1,128
Artistic .. ..	47	61	37	52	18
International .. ..	..	..	..	..	..

### § 13. Cost of Administration of Law and Order

1. **Expenditure by the States.**—The tables below show the net expenditure (i.e., gross expenditure less receipts from fees, fines, recoups for services rendered, etc.) from Consolidated Revenue during 1962–63 in connexion with the administration of justice, police and prisons in each State.

In South Australia, the receipts for legal fees and registrations exceed the expenditure under "Justice". Because of differing legislative and administrative arrangements in the various States, the activities covered by the figures shown are not exactly the same in each State. Small differences also result from differing accounting practices. However, the figures shown for individual States are comparable from year to year.

## NET EXPENDITURE ON LAW AND ORDER, 1962-63

State	Net expenditure			Per head of population		
	Justice	Police	Prisons	Justice	Police	Prisons
	£	£	£	s. d.	s. d.	s. d.
New South Wales ..	1,558,114	9,330,127	1,525,394	7 9	46 6	7 7
Victoria ..	830,634	7,739,027	1,149,871	5 6	51 2	7 7
Queensland ..	438,380	4,866,813	495,011	5 8	62 8	6 5
South Australia ..	-353,523	2,802,990	442,392	-7 1	56 1	8 10
Western Australia ..	218,533	2,000,709	289,053	5 9	52 4	7 7
Tasmania ..	230,254	985,720	222,240	12 9	54 5	12 3
<b>Total ..</b>	<b>2,922,392</b>	<b>27,725,386</b>	<b>4,123,961</b>	<b>5 5</b>	<b>51 9</b>	<b>7 8</b>

2. *Commonwealth Expenditure.*—(i) *Attorney-General's Department.* The expenditure shown in the previous table is that incurred by the State Governments. Since the functions of the Commonwealth Government in the administration of law and order differ considerably from those of the States, precise comparison between Commonwealth and State expenditure in this field is not possible. The following table, however, shows the gross expenditure by the Commonwealth Attorney-General's Department during the year 1962-63 on the main services it performs.

## EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT, 1962-63

(£ )

Particulars	Gross expenditure
Administration ..	386,538
Australian Police College ..	27,809
Bankruptcy ..	254,005
Commonwealth Police Force ..	347,744
Conciliation and arbitration ..	248,556
Crown Solicitor's Office ..	479,806
High Court ..	104,860
Judges' salaries and pensions ..	215,426
Legal Service Bureau ..	65,856
Matrimonial causes—Grants to organizations ..	51,750
Patents, trade marks and designs ..	588,759
Rent ..	89,808
Repairs and maintenance ..	32,625
Court Reporting Branch ..	204,505
Territory courts ..	151,202
<b>Total ..</b>	<b>3,249,249</b>

In addition, £89,103 was spent by the Attorney-General's Department on capital works and services.

The items of expenditure shown in the table above are gross. Receipts of the Attorney-General's Department for 1962-63 aggregated £1,039,207, of which revenue on account of Patents, Trade Marks and Designs, and Copyright amounted to £605,732, Bankruptcy £181,013, Court Reporting Branch £182,395, Fees, Fines and Costs of Court £41,022, and Miscellaneous £29,045.

Expenditure and receipts of the Attorney-General's Department for the five years 1958-59 to 1962-63 are shown in the following table.

**EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S  
DEPARTMENT**

(£)

Year	Gross expenditure	Receipts	Net expenditure
1958-59 .. .. .	2,184,038	572,771	1,611,267
1959-60 .. .. .	2,534,609	670,048	1,864,561
1960-61 .. .. .	2,699,095	812,493	1,886,602
1961-62 .. .. .	2,913,966	946,934	1,967,032
1962-63 .. .. .	3,249,249	1,039,207	2,210,042

(ii) *Police and Prisons.* Expenditure (other than capital) by the Commonwealth Government on police in the Australian Capital Territory (excluding the Commonwealth Police Force shown above) and police and prisons in the Northern Territory for the five years 1958-59 to 1962-63 is shown in the following table.

**EXPENDITURE ON POLICE AND PRISONS IN THE NORTHERN TERRITORY  
AND THE AUSTRALIAN CAPITAL TERRITORY**

(£)

Year	Northern Territory	Australian Capital Territory <sup>(a)</sup>
1958-59 .. .. .	227,031	137,894
1959-60 .. .. .	262,261	168,952
1960-61 .. .. .	322,763	197,275
1961-62 .. .. .	335,485	215,921
1962-63 .. .. .	394,984	263,148

<sup>(a)</sup> Expenditure on police only. There is no prison in the Australian Capital Territory.